

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

ROBERT A. EATON,

Plaintiff,

vs.

MONTANA SILVERSMITHS,

Defendant.

CV 18-65-BLG-SPW

ORDER

Defendant Montana Silversmiths requests leave to file a second motion for summary judgment, addressing the remaining surviving claim in Plaintiff's Fourth Amended Complaint. (Doc. 127). Plaintiff opposes the request. (Doc. 129). Federal Rule of Civil Procedure 56 does not preclude successive summary judgment motions. The Ninth Circuit held that "the denial of summary judgment does not preclude a contrary later grant of summary judgment." *Hoffman v. Tonnemacher*, 593 F.3d 908, 911 (9th Cir. 2010). "Consequently, allowing a party to file a second motion for summary judgment is logical, and it fosters the 'just, speedy, and inexpensive' resolution of suits." *Id.* (citing Fed. R. Civ. P. 1).

Here, the Court finds that given the now-narrowed scope of the motion—in contrast to the unwieldy docket that existed when Defendant filed its initial summary judgment motion—a second motion for summary judgment may lead to

resolution of the case. In the order denying summary judgment, the Court stated, “Montana Silversmiths did not present any argument on this claim in its motion for summary judgment . . . [t]herefore Montana Silversmiths motion for summary judgment as to this claim shall be denied.” (Doc. 113 at 23-24). Accordingly, the Court has not ruled on the merits of this claim and whether it is appropriate for summary disposition. Full briefing will allow the Court to properly rule on the issue.

Plaintiff, in his response, references caselaw without attribution or citation, some apparently from New York Municipal Court and others with no references at all. This is directly in violation of District of Montana Local Civil Rule 1.5. Furthermore, the response contains several unhelpful parentheticals and is at least half devoted to attempting to have the Court reconsider previously dismissed claims. This is wholly inappropriate and a waste of the Court’s time and resources. Briefing on a matter is meant to direct attention toward specific facts and legal argument and is expected to stay on the issue presented. See Local Civil Rule 7.

Defendant’s Motion for Leave is GRANTED.

DATED this 1<sup>st</sup> day of February 2022.

  
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SUSAN P. WATTERS  
United States District Judge